

BEFORE THE INDIANA STATE
BOARD OF NURSING
CAUSE NUMBER: 2011 NB 212

IN THE MATTER OF THE LICENSE OF:)
THOMAS EDWARD SCHULTHEIS, R.N.)
LICENSE NO: 28127628A)

FILED

JUN 27 2012

Indiana Professional
Licensing Agency

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
ULTIMATE FINDINGS OF FACT AND ORDER**

The Indiana State Board of Nursing ("Board") held an administrative hearing on May 17, 2012 in the Auditorium of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana 46204 concerning the Administrative Complaint filed against the Indiana nursing license of Thomas Edward Schultheis, R.N. ("Respondent") on August 15, 2011.

The State of Indiana ("Petitioner") was represented by Deputy Attorney General Jessica Joshua. Respondent appeared in person with counsel Merle Rose.

The Board, after considering the evidence presented and taking official notice of its file in this matter issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. Respondent is a Registered Nurse ("R.N.") in the State of Indiana having been issued license number 28127628A on February 27, 1995.
2. Respondent's address on file with the Indiana Professional Licensing Agency is 5 East Boone Street, Cloverdale, Indiana 46120.
3. On or around February 4, 1998, Respondent was charged with Battery with Injury on a Juvenile, a Class D Felony, in Johnson County, Indiana Superior Court under Cause Number 41D03-9802-DF-00029 after his son reported to his school's guidance counselor that Respondent had beat him with a belt resulting in bruising and welts on his back.

4. On or around August 15, 1998, Respondent pled guilty to Battery on a Juvenile, a Class A Misdemeanor in Johnson Superior Court.

5. On or around February 2, 2000, Respondent was criminally charged in Daviess County, Indiana Superior Court with Possession of Marijuana and Possession of Paraphernalia, both Class A Misdemeanors, under cause number 14D01-0002-CM-085.

6. On or around December 4, 2001, Respondent was criminally charged with Battery, a Class A Misdemeanor, in Johnson County, Indiana Superior Court under cause number 41D01-0112-CM-00318. The victim was a friend of Respondent's daughter. The victim tried to intercede after the Respondent physically attacked his daughter and then the Respondent physically attacked the victim.

7. On or around December 2, 2002, Respondent pled guilty to Battery with Bodily Injury, a Class A Misdemeanor in Johnson County Superior Court under cause number 41D01-0112-CM-00318.

8. On or around March 7, 2003, Respondent's pending criminal charges in Daviess Superior Court under cause number 14D01-0002-CM-085 were dismissed at the State's request. Respondent had a motion for Discharge under Indiana Criminal Rule 4 pending at the time of dismissal.

9. On or around December 9, 2003, Respondent renewed his Indiana nursing license and answered "no" to the question, "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?"

10. On or around February 6, 2007, Respondent began his employment with Putnam County Hospital in Greencastle, Indiana.

11. On or around June 26, 2007, Respondent's employment was terminated from Putnam County Hospital after Respondent left the hospital following an argument with another nurse on his unit. Respondent was not eligible for rehire.

12. On or around July 30, 2007, Respondent began his employment with Correctional Medical Services ("CMS").

13. On or around October 30, 2007, Respondent renewed his Indiana nursing license and answered "no" to the question, "Since you last renewed, have you been terminated, reprimanded, disciplined or demoted in the scope of your practice as a nurse or as another health care professional?"

14. On or around January 29, 2008, Respondent was criminally charged with Driving While Suspended, a Class A Misdemeanor, in Putnam County, Indiana Superior Court under cause number 67D01-0801-CM-00090.

15. On or around January 30, 2008, Respondent's employment was terminated from CMS after he made threatening remarks to his co-workers.

16. On or around March 20, 2008, Respondent began employment at Summerfield Health Care Center (formerly Cloverdale Convalescent & Rehabilitation Center) ("Summerfield") located in Cloverdale, Indiana.

17. On or about January 5, 2009, Respondent received a "Teachable Moment" from Summerfield regarding a letter the Respondent wrote to the Summerfield administration regarding the termination of a Summerfield employee that was deemed inappropriate by Summerfield.

18. On or around May 12, 2009, Respondent was again criminally charged with Driving While Suspended, a Class A Misdemeanor, in Putnam County, Indiana Superior Court under cause number 67D01-0905-CM-00314.

19. On or about May 13, 2009, Respondent was witnessed by Summerfield employees closing the door on Summerfield Resident A, who was on the floor because the Respondent said the resident was having a "behavior." Respondent did not check on Resident A and a Summerfield CNA had to help the resident off of the floor.

20. On or about May 14, 2009, a Summerfield Certified Nurse Aide ("CNA") notified the facility administrator that on May 12, 2009, she witnessed the Respondent hoist Resident B over his shoulder and carry the resident to her room, and once in the room, the Respondent held the door closed so that Resident B could not leave the room. A number of employees witnessed this incident between the resident and Respondent. On May 17, 2012 during the hearing before the Board, Respondent admitted to this incident; however stated that his actions were appropriate for the situation.

21. On or about May 14, 2009, Respondent was terminated from Summerfield for "abuse/ neglect" incidents involving Resident A and Resident B.

22. On or around October 19, 2009, Respondent renewed his Indiana nursing license online and answered "no" to question five which asks, "Since you last renewed, have you ever been terminated, reprimanded, disciplined, or demoted in the scope of your practice as a Nurse or as another health care professional?" Respondent also answered "no" to question number three which asks, "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?"

23. On or around January 26, 2010, Respondent was, for a third time, criminally charged with Driving While Suspended in Putnam County, Indiana Superior Court under cause number 67D01-1001-CM-000062.

24. On or around March 17, 2010, Respondent was, for a fourth time, criminally charged with Driving While Suspended in Hancock County, Indiana Superior Court under cause number 30D02-1003-CM-00324.

25. On or around April 1, 2010, Respondent signed a pre-trial diversion agreement with the Putnam Superior Court for cause numbers 67D01-0905-CM-00314, 67D01-0801-CM-00090 and 67D01-1001-CM-000062.

26. The terms and conditions of the April 1, 2010 pre-trial diversion agreement required the Respondent to complete community service, pay a pre-trial diversion fee of \$318.50, and obey all laws.

27. Per the April 1, 2010 pre-trial diversion agreement, Respondent pled guilty to the charge of Driving While Suspended, but after successful completion of the terms and conditions of the pre-trial agreement, the case was dismissed.

28. On or around May 3, 2010, Respondent pled guilty to Driving While Suspended in Hancock Superior Court under cause number 30D02-1003-CM-00324. Respondent was issued fines and costs.

29. On or around November 16, 2010, Respondent was charged with Battery Resulting in Bodily Injury in the Putnam County Superior Court under cause number 67D01-1011-CM-641 based on a probable cause affidavit documenting a domestic disturbance involving a gun. On August 11, 2011, the charge of Battery Resulting in Bodily Injury was dismissed.

30. During the hearing before the Board on May 17, 2012, Londa Couch, Summerfield Administrator, testified that after an internal investigation into the incidents involving Resident A, Resident B, and the Respondent, Summerfield administration determined that Respondent's behavior with the two residents was inappropriate and warranted immediate termination of Respondent's employment at Summerfield.

31. During the hearing before the Board on May 17, 2012, Corrine Williams, a Summerfield employee, testified that she witnessed the May 13, 2009 incident between the Respondent and Resident A and found the interaction to be inappropriate behavior on the part of the Respondent.

32. During the hearing before the Board on May 17, 2012, Tina Conover, a Summerfield employee, testified that she witnessed the May 13, 2009 incident between the Respondent and Resident B and found the interaction to be improper practice and behavior on the part of the Respondent.

33. During the hearing before the Board on May 17, 2012, Duane Tripp, Administrator of Especially Kidz, testified that Respondent had been a reliable employee for over two years.

CONCLUSIONS OF LAW

1. The Board voted 5-0-0 finding that Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(A) in that Respondent engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice as evidenced by Respondent's failure to disclose his December 2, 2002 guilty plea to Battery with Bodily Injury on his 2003 Indiana nursing license renewal.

2. The Board voted 5-0-0 finding that Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(A) in that Respondent engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice as evidenced by Respondent's failure to disclose his June 26, 2007 termination from Putnam County Hospital on his 2007 Indiana nursing license renewal.

3. The Board voted 5-0-0 finding that Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(A) in that Respondent engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice as evidenced by Respondent's failure to disclose his January 30, 2008 termination from CMS and his May 14, 2009 termination from Summerfield on his 2009 Indiana nursing license renewal.

4. The Board voted 5-0-0 finding that Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(1)(A) in that Respondent engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice as evidenced by Respondent's failure to disclose his January 29, 2008 and May 12, 2009 pending charges of Driving While Suspended on his 2009 Indiana nursing license renewal.

5. The Board voted 5-0-0 finding that Respondent's conduct constitutes a violation Ind. Code § 25-1-9-4(a)(2)(B) in that Respondent has been convicted of crimes that are harmful to the public as evidenced by his August 15, 1998 guilty plea to Battery on a Juvenile, December 2, 2002 guilty plea to Battery with Bodily Injury, and his May 3, 2010 guilty plea to Driving While Suspended.

6. The Board voted 5-0-0 to dismiss Counts VI of the State's Administrative Complaint finding there was insufficient evidence to support a finding that Respondent used unsafe judgment and technical skills by the Respondent transporting a patient from the

emergency room at Putnam County Hospital to the intensive care unit and leaving the patient in the hallway without telling the other staff members that the patient was in the unit. The Board also found that there was insufficient evidence to support the finding that Respondent restarted a patient's order for heparin at Putnam County Hospital despite not having a physician's order to do so.

7. The Board voted 5-0-0 finding that Respondent's conduct constitutes a violation Ind. Code § 25-1-9-4(a)(4)(B) in that Respondent disregarded a patient's dignity, right to privacy, or right to confidentiality, as evidenced by the Respondent carrying a patient over his shoulder and then holding her door shut, as well as Respondent failing to respond to a patient who was on the floor in distress while Respondent was employed at Summerfield.

ULTIMATE FINDINGS OF FACT

Respondent's violation is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, revocation and/or a fine up to the amount of \$1,000 per violation as detailed in Ind. Code § 25-1-9-9.

ORDER

Based upon the above Findings of Fact, the Board issues the following Order:

1. Respondent's Indiana nursing license is hereby placed on **INDEFINITE SUSPENSION** for no less than five (5) years from the date of the final order.

2. Prior to petitioning for reinstatement, Respondent must undergo a Minnesota Multiphasic Personality Inventory-2 ("MMPI II") focusing on anger management by an assessor approved by the Board in advance. Respondent's assessment must document that the assessor reviewed the final order in this matter as a part of the assessment. Respondent must provide a

copy of the assessment, as well as proof that he has completed any and all recommendations of the assessor.

3. Prior to petitioning for reinstatement, Respondent shall submit to the Board proof of completion of **SEVENTY-TWO (72)** hours of continuing education in the following areas:

- A. **TWENTY-FOUR (24)** in the area of Alzheimer's;
- B. **TWENTY-FOUR (24)** in the area of patient dignity;
- C. **TWENTY-FOUR (24)** in the area of ethics;

4. Prior to petitioning for reinstatement, Respondent shall pay to IPLA a **FINE** in the amount of **SEVEN HUNDRED AND FIFTY DOLLARS AND NO CENTS (\$750.00)**.

5. All documentation for IPLA/Board including fines shall be sent to the following address:

Professional Licensing Agency
Attn: Indiana State Board of Nursing
402 W. Washington Street, Room W072
Indianapolis, Indiana 46204

6. Prior to petitioning for reinstatement, Respondent shall pursuant to Ind. Code § 4-6-14-10 (b), pay a fee of **Five Dollars (\$5.00)** to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the following address:


Indiana Office of the Attorney General
Attn: Katie Thorpe
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

7. Violation of the Final Order or any non-compliance with the statutes or regulations regarding the practice of nursing could result in the State requesting an emergency suspension of Respondent's license, an Order to Show Cause as may be issued by the Board, or a

new cause of action pursuant to Ind. Code § 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

SO ORDERED, this 26th day of June, 2012.

INDIANA STATE BOARD OF NURSING

By: 
for Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Thomas Schultheis
5 East Boone Street
Cloverdale, IN 46120

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156 East Market Street
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CERTIFICATE OF SERVICE

I certify that a copy of the "Finding of Fact, Conclusions of Law, Ultimate Findings of Fact and Order" has been duly served upon:

Thomas Schultheis
5 East Boone Street
Cloverdale, IN 46120
Service by Mail

Merle B. Rose
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6/27/12
Date

Carri Burke
Carri Burke, Compliance Director

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Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.